OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable W. A. Davis
State Registrar
Texas State Board of Health
Austin, Texas

Dear Sir:
                    Opinion No. O-3655
                    Re: Status of fees received by
                        a justice of the peace, com-
                        pensated on a fee basis,
                        when serving as local Reg-
                        istrar of Vital Statistics.

      Your recent request for an opinion from this depart-
ment has been received and considered. We quote from your re-
quest:

      "The opinions rendered by the Attorney Gen-
eral in the past relative to the fees to be col-
lected for birth and death certificates by the
Justices of the Peace have varied to such an
extent that there is considerable confusion.

      "The former State Auditor secured an opinion
No. 0-419 which is directly contradictory to pre-
vious opinions rendered.

      "* * *.

      "I will be glad to have you advise me with
reference to that opinion as soon as possible."

      We find in examining the question submitted in your
request that this department has previously ruled on the same.
In a letter opinion to Honorable Tom C. King, dated August 11,
1938, this department held that fees collected by a Justice of
the Peace, compensated on a fee basis, for acting as Registrar
of Vital Statistics are fees of office and accountable as such.
A copy of that opinion is being enclosed for your information.

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This department in Opinion No. 0-419 followed the holding in the opinion to Honorable Tom C. King and reaffirmed that fees of office collected by a Justice of the Peace, acting as local Registrar of Vital Statistics, compensated on a fee basis, are fees of office and should be accounted for as such. A copy of Opinion No. 0-419 is being enclosed for your information.

We have carefully examined the brief attached to your request. We regret that we are unable to concur in the conclusions therein expressed.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Harold M. Cracken*

Harold McCracken
Assistant

HM:RS

ENCLOSURES

APPROVED JUN 23, 1941

Glenn R. Lewis

acting ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE
BY
CHAIRMAN